



City of Norfolk

Office of the City Manager

C: Dir., City Planning

Re: July 11, 2006

To the Honorable Council
City of Norfolk, Virginia

Re: Special Exception – 525 North Military
Highway

Ladies and Gentlemen:

I. **Recommended Action:** Approve the ordinance.

II. **Overview**

This agenda item is a special exception that would govern operation of an eating and drinking establishment known as East Lake Restaurant to be located at 525 North Military Highway. The site is located in a C-2 (Commercial Corridor) district on an out parcel of the Ramada Inn along the west side of N. Military Highway.

The site was previously a restaurant. Attached hereto are conditions prescribed to the granting of the special exception.

III. **Analysis**

A. **General**

The previous use of the site was a restaurant. The property is zoned C-2 (Corridor Commercial) District which allows establishments for the sale of alcoholic beverages for on-premise consumption by special exception. Included as part of this transmittal letter are conditions prescribed to the granting of the special exception. The General Plan designates the area as commercial. This proposal would be considered consistent with the General Plan of Norfolk.

The City Council, in considering these conditions, must also determine that the proposed Special Exception complies with each of the requirements of Section 25-7 of the Zoning Ordinance of the City of Norfolk. The requirements address compatibility with the objectives and policies of The General Plan of Norfolk, assurance against a negative impact on the value of other properties within the neighborhood, traffic congestion, impact on natural resources (water and air quality) and other conditions as noted in the attached ordinance.

R-1

B. Fiscal
N/A.

C. Environmental
N/A.

D. Community Outreach/Notification
The applicant met with and received full support from the Poplar Hall Civic League. The Planning Commission held a public hearing on the matter.

IV. Board/Commission Action

The City Planning Commission recommends **approval** of the application of East Lake Restaurant by East Lake Xing, Inc by a vote of **7 to 0**. Conditions recommended by the Planning Commission as a part of the adult use special exception for East Lake Restaurant by East Lake Xing, Inc.

1. The hours of operation for the sale of alcoholic beverages shall be from 11:00 a.m. until 10:00 p.m., Monday through Thursday, from 11:00 a.m. until 11:00 midnight, Friday and Saturday, and from 12:00 noon to 10:00 p.m. on Sunday.
2. The seating capacity for the restaurant shall not exceed 128 seats and the total occupancy shall not exceed 135 people.
3. There shall be no entertainment provided.
4. There shall be no off-premises sales of alcohol.
5. This Special Exception shall automatically expire upon a change of ownership of the property, a change in possession, or a change in the operation or management of the facility.
6. The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set for in "Exhibit A", attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators, and managers who operate and/or manage the premises covered by this Special Exception. Should any owners, operator, or manager desire to operate the business in a manner different that as presented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
7. Any requirements, limitations or restrictions imposed by the Virginia ABC Commission or by any provision of Virginia Law upon this establishment which are more stringent than the requirements of the Special Exception shall be effective and binding. Any violation of such limitation requirement or

restriction imposed by the ABC Commission shall be deemed a violation of this Special Exception. The Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from limitations, requirements of restrictions imposed by the ABC Commission or by State Law.


8. An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the facility is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
9. In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
10. A copy of this Special Exception ordinance and "Exhibit A" (including the floor plan) shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
11. When the facility is leased, le, or used by a third party to stage an event for profit, the facility manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of the event.

Violation of any provision or condition of this ordinance shall be punishable in accordance with the enforcement procedures set forth in Chapter 23 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended) and shall constitute grounds for revocation of this Special Exception.

V. Conclusion

It is recommended that the City Council approve the ordinance as presented including conditions.


Respectfully submitted,


Regina V.K. Williams
City Manager

Form and Correctness Approved:

Contents Approved:

By


Office of the City Attorney

NORFOLK, VIRGINIA

By


DEPT.**ORDINANCE No.**

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF AN EATING AND DRINKING ESTABLISHMENT ON PROPERTY LOCATED AT 525 NORTH MILITARY HIGHWAY.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to East Lake Xing, Inc. authorizing the operation of an eating and drinking establishment on property located at 525 North Military Highway. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 191 feet, more or less, along the western line of Military Highway, beginning 339 feet, more or less, north of Poplar Hall Drive and running northwardly; premises numbered 525 North Military Highway.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation and for the sale of alcoholic beverages shall be from 11:00 a.m. until 10:00 p.m. Monday through Thursday, from 11:00 a.m. until 11:00 p.m. Friday and Saturday, and from 12:00 noon until 10:00 p.m. on Sunday.
- (b) The seating capacity for the restaurant shall not exceed 128 seats, and the total occupancy, including employees, shall not exceed 135 people.
- (c) There shall be no entertainment.
- (d) There shall be no off-premises sales of alcoholic beverages.
- (e) This special exception shall automatically expire upon a change in ownership of the

property, a change in possession, or a change in the operation or management of the facility.

- (f) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator, or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (g) Any requirements, limitations, or restrictions imposed by the Virginia ABC Commission or by any provision of Virginia law upon this establishment which are more stringent than the requirements of this Special Exception shall be effective and binding. Any violation of such requirement, limitation, or restriction imposed by the ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (h) A copy of this special exception ordinance and "Exhibit A" (including the floor plan) shall be available on site at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address and telephone number of the zoning

administrator.

Section 3:- That the City Council hereby makes the following findings of fact:

- (a) That the proposed use will not be contrary to the public interest or be injurious to nearby properties, and that the spirit and intent of the zoning ordinance will be observed;
- (b) That the establishment of an additional adult use in the area will not conflict with any Council adopted objectives, plans or programs for the area;
- (c) That the establishment of an additional adult use will not be contrary or detrimental to any program of neighborhood conservation or renewal in adjacent residential areas; and
- (d) That all applicable regulations of the zoning ordinance and special conditions attached to this special exception will be observed.

Section 4:- That the City Council hereby waives the locational provisions for adult uses as set forth in Section 25-10.1 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended).

Section 5:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;

- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be

recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 6:- Violation of any provision or condition of this ordinance shall be punishable in accordance with the enforcement procedures set forth in Chapter 23 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended) and shall constitute grounds for revocation of this Special Exception.

Section 7:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT

Exhibit A (2 pages)



City of Norfolk

EXHIBIT 'A' Description of Operations On-Premise Sale of Alcoholic Beverage

Date of Application April 10, 2006

Trade name of business: East Lake Restaurant

Address of business: 525 North Military Highway Norfolk, VA

Name(s) of business owner(s) East Lake Xing, Inc.

Name(s) of property owner(s): Richard Wong

Name(s) of business manager(s)/operator(s): Chuan Jin Sun

Daytime telephone number: (757) 455-8858

1. Seating

a. Indoor

Number of seats 130

Number of tables 29

Number of bar seats 11 (9 Sushi Bar)

b. Outdoor

Number of seats _____

Number of tables _____

c. Number of employees 7

Total Occupancy (Indoor and Outdoor and employees) 140

2. Describe type tables and booth (i.e., rounds of 4, booth seats 6, etc.)

7 booths seating 4 people each; 9 barbeque tables, 6 of which
seat 6 people and 3 of which seat 4 people

3. Will indoor or outdoor entertainment be provided? NO If yes, describe the type of entertainment (i.e., 3 piece band, disc jockey, etc.)

Department of Planning
Room 508 - City Hall Building
Norfolk, Virginia 23510
Telephone (757) 664-4752 FAX (757) 441-1569

ABC On-Premises Special Exception
Page 2

4. If entertainment will be provided:
a. Leasable square footage of establishment: _____
b. Size of dance floor: _____ square feet.
5. Type of alcoholic beverage applied for:
☒ Beer ☒ Wine ☒ Mixed Beverage
6. Will video games, pool tables, game boards or other types of entertainment be provided? If yes, please describe type and number of each game to be provided:

NO

7. Will patrons ever be charged to enter the establishment? NO
If yes, explain: _____

8. Will the facility be available for private parties? NO
If yes, explain: _____

9. Type of ABC license applied for (check all applicable boxes):

☒ On-Premises ☐ Off-Premises (second application required)

10. Additional comments/description/operational characteristics:

by: East Lake Restaurant

Signature of Applicant

Note: A page size drawing showing the floor plan, seating arrangement, bar arrangement, entrances and exits and dance floor location and size must be submitted with this exhibit (see attached Floor Plan example).



City of Norfolk

Inter Department Correspondence Sheet

TO: _____ City Manager
FROM: _____ City Planning Commission
COPIES TO: _____
SUBJECT: _____ Application for Adult Use Special Exception (3 P.H. 25 May 2006)

PART 1: APPLICATION DESCRIPTION:

Nature of Application:

Special Exception: To operate an Eating and Drinking Establishment.

Location: 525 N. Military Highway (Maps 1 and 2).

Applicant: East Lake Restaurant by East Lake Xing, Inc.

Property Owner: Wongsons LLC

Description of proposed use:

The applicant is seeking a special exception to operate an eating and drinking establishment. The applicant proposes to operate a restaurant using the existing structure.

The previous use of the site was a restaurant. The property is zoned C-2 (Corridor Commercial) District which allows establishments for the sale of alcoholic beverages for on-premise consumption by special exception.

No entertainment will be provided. The total number of seats shall be no more than 128, with a total occupancy not to exceed 135 people.

The proposed hours of operation for the sale of alcoholic beverages shall be from 11:00 a.m. to 10:00 p.m. Monday through Thursday, from 11:00 a.m. to 11:00 p.m. Friday and Saturday, and from 12:00 noon to 10:00 p.m. on Sunday. Adequate parking is available on site.

Description of existing land use pattern:

The site is located in a C-2 (Commercial Corridor) district on an out parcel of the Ramada Inn along the west side of N. Military Highway. To the north of the site is a C-3 (Retail Center) district, which is developed with a strip retail shopping center.

PART 2: ANALYSIS/EVALUATION

Prior Zoning History:

The Planning Commission has recently considered the following applications in the general vicinity of this application.

2002: A request by Mi Hogar Mexican Restaurant, for a special exception to operate an eating and drinking establishment on property located at 471 N. Military Highway. The application was approved by Council.

2002: A request by China Bowl for a special exception to operate an eating and drinking establishment on property located at 525 N. Military. The application was approved by Council.

Neighborhood Impact:

This proposal should not have a negative impact on the surrounding properties. An eating and drinking establishment, operating in accordance with Exhibit A, would not have a negative impact on the N. Military Highway Commercial Corridor. The site is located along a busy commercial corridor and has no residential exposure.

General Plan Impact:

The General Plan designates the area as commercial/office. By special exception, eating and drinking establishments are permitted in commercial districts so the proposed use is not in conflict with the General Plan.

Zoning Impact:

This application is for a special exception, which acknowledges that while the use is generally permitted in the district, it is of such a character that careful scrutiny is needed to determine if it is appropriate in this specific location and, if so, under what conditions.

The application for an eating and drinking establishment requires an adult use special exception, to which particular locational standards (described in

Subsection 25-10.1) dealing with the concentration of similar facilities and the proximity to residential districts apply. Granting the request could require the waiver of these standards. Two waivers are needed for this application as is illustrated on Map 5.

The waivers may be granted by City Council if all four of the following findings are made:

- 1) That the proposed use will not be contrary to the public interest or be injurious to nearby properties, and that the spirit and intent of the zoning ordinance will be observed;
- 2) That the establishment of an additional adult use in the area will not conflict with any Council adopted objectives, plans or programs for the area;
- 3) That the establishment of an additional adult use will not be contrary or detrimental to any program of neighborhood conservation or renewal in adjacent residential areas; and
- 4) That all applicable regulations of the zoning ordinance and special conditions attached to special exception will be observed.

As shown on Map 1, the site is located in a C-2 (Commercial Corridor) district, which is developed with conforming uses. This use will have to observe the general conditions for special exceptions contained in Section 25-9 of the Zoning Ordinance and the special standards relating to adult uses contained in Subsection 25-10.1.

PART 3: RECOMMENDATION:

The Planning Commission unanimously recommends (by a 7 to 0 vote) that this adult use special exception to operate an eating and drinking establishment be approved subject to the following conditions:

- 1) The hours of operation and for the sale of alcoholic beverages shall be from 11:00 a.m. until 10:00 p.m. Monday through Thursday, from 11:00 a.m. until 11:00 p.m. Friday and Saturday, and from 12:00 noon until 10:00 p.m. on Sunday.
- 2) The seating capacity for the restaurant shall not exceed 128 seats,

and the total occupancy, including employees, shall not exceed 135 people.

- 3) There shall be no entertainment provided.
- 4) There shall be no off-premises sales of alcoholic beverages.
- 5) This Special Exception shall automatically expire upon a change of ownership of the property, a change in possession, or a change in the operation or management of the facility.
- 6) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- 7) Any requirements, limitations or restrictions imposed by the Virginia ABC Commission or by any provision of Virginia law upon this establishment which are more stringent than the requirements of this Special Exception shall be effective and binding. Any violation of such limitation requirement or restriction imposed by the ABC Commission shall be deemed a violation of this Special Exception. The Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from limitations, requirements of restrictions imposed by the ABC Commission or by State law.
- 8) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the facility is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- 9) In addition to the ABC manager or supervisor the applicant shall pro-

vide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

- 10) A copy of this Special Exception ordinance and "Exhibit A" (including the floor plan) shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- 11) When the facility is leased, let, or used by a third party to stage an event for profit, the facility manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of the event.
- 12) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- 13) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- 14) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- 15) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- 16) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- 17) The proposed use and development will not cause undue traffic con-

gestion nor draw significant amounts of traffic through residential streets;

- 18) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- 19) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- 20) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- 21) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- 22) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.
- 23) Violation of any provision or condition of this ordinance shall be punishable in accordance with the enforcement procedures set forth in Chapter 23 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended) and shall constitute grounds for revocation of this Special Exception.

MAPS:

1. Location and Zoning
2. Site
3. Site Plan
4. Floor Plan
5. Adult Use Waivers Needed

Property Description:

Property fronting 191 feet, more or less, along the western line of Military Highway, beginning 339 feet, more or less, north of Poplar Hall Drive and running northwardly; premises numbered 525 North Military.

Proponents:

Scott Alperin
4605 Pembroke Lake Circle, Suite 203
Virginia Beach, VA 23455

Opponents:

None

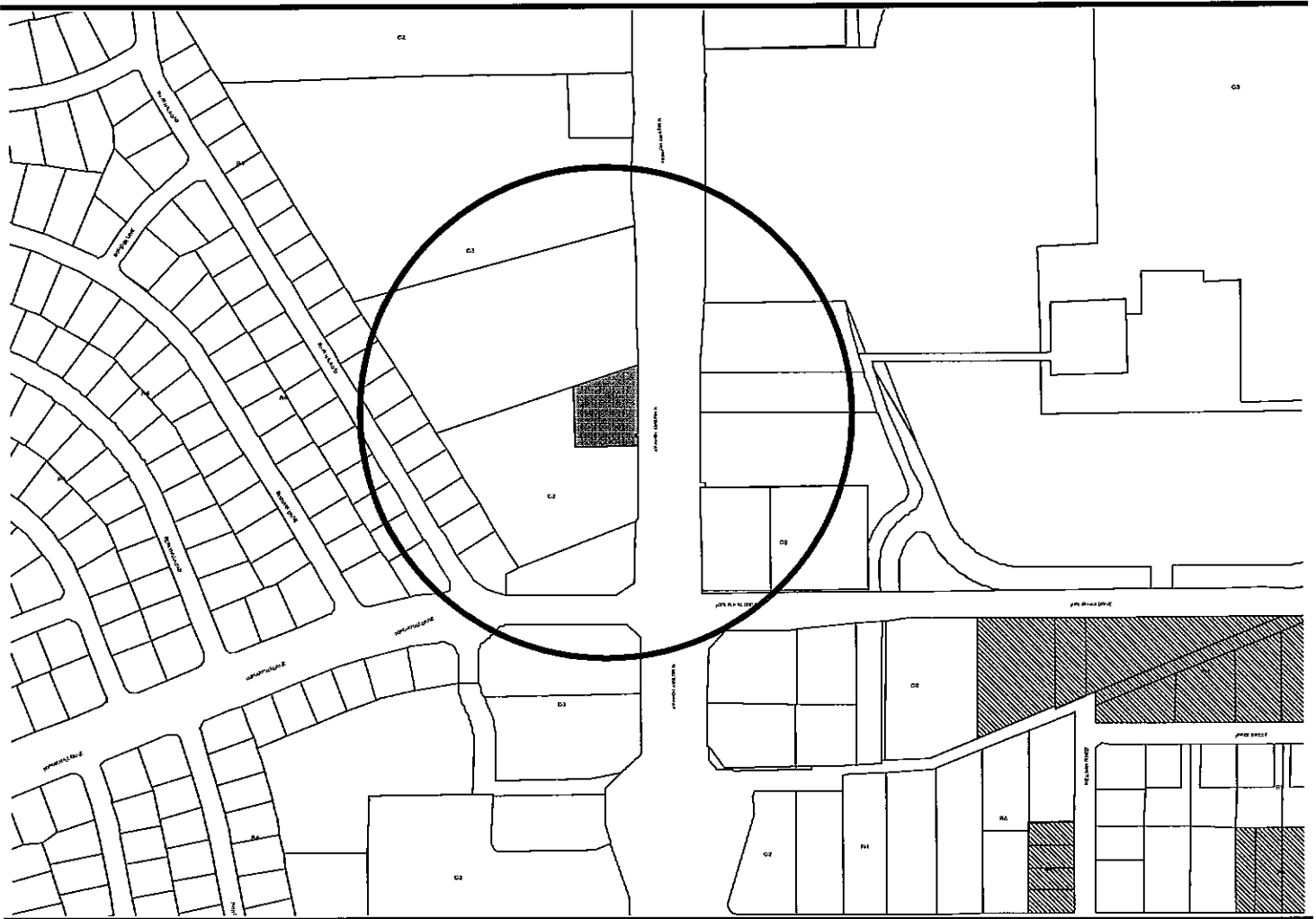
A handwritten signature in black ink, appearing to read "Stanley Stein". The signature is fluid and cursive, with the first name "Stanley" written in a larger, more prominent script than the last name "Stein".

Stanley Stein
Acting Executive Secretary

Attachments

1. LOCATION AND ZONING
PROPOSED ADULT SPECIAL EXCEPTION

EAST LAKE RESTAURANT
525 North Military Highway



Planning Commission Public Hearing

May 25, 2006

Application 3



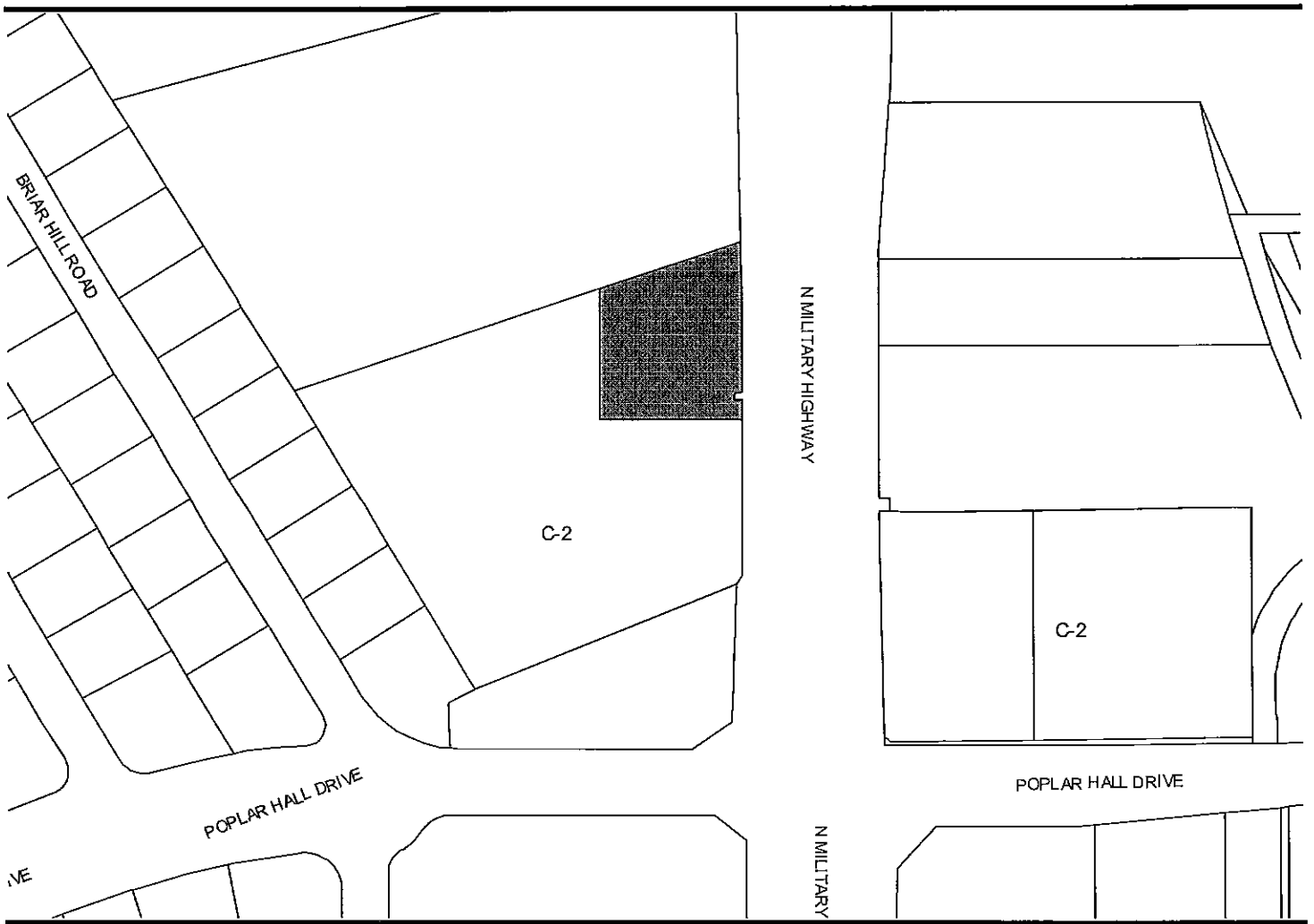
Location



2. SITE

PROPOSED ADULT SPECIAL EXCEPTION

EAST LAKE RESTAURANT
525 North Military Highway



Planning Commission Public Hearing

May 25, 2006

Application 3



Location